

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JULIO E. RIVERA ILARAZA, : **Civ. No. 1:15-cv-2257**
Plaintiff, :
: :
v. : **Judge Rambo**
SUPERINTENDENT MR. :
KERESTES, et al., : **Magistrate Judge Saporito**
Defendants. :
:

O R D E R

Presently before the court is a report and recommendation (Doc. 48) filed by the magistrate judge in which he recommends that Defendants' motion to dismiss (Doc. 22) be granted and that Plaintiff be granted leave to file an amended complaint. Objections to the report and recommendation were due on July 22, 2016, and, to date, no objections have been filed.

Upon independent review of the facts and law applicable thereto, the report and recommendation will be adopted. Accordingly, **IT IS HEREBY ORDERED AS FOLLOWS:**

- 1) The report and recommendation of the magistrate judge (Doc. 48) is **ADOPTED**;
- 2) Defendants' motion to dismiss (Doc. 22) is **GRANTED**;
- 3) Plaintiff's complaint (Doc. 1) is **DISMISSED** for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6);

- 4) Plaintiff is granted leave to file an amended complaint within 21 days of this order;
- 5) The clerk of court is directed to close this case if an amended complaint is not timely filed;
- 6) This matter is remanded to the magistrate judge for any further proceedings.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: August 1, 2016